

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

Crl.MC.No. 2694 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.3413/2007
[CRIME NO.215/2007 OF AROOR POLICE STATION]
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PETITIONER: COMPLAINANT

ELAMMA, D/O.CHACKO, MARKANDEZHATH,
CHANDIROOR.P.O., CHERTHALA.

BY ADV. SRI.J.OM PRAKASH

RESPONDENTS: ACCUSED AND THE STATE

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1. SHEEBA, W/O.ROY, KEZHAKKE KOVILAKATHU,
AROOR, ALAPPUZHA.
 2. ROY, S/O.AUGUSTINE, -DO- -DO-
 3. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2694 of 2007

Dated this the 15th day of October 2007

O R D E R

The petitioner is the de facto complainant in a crime registered under Sections 420 and 323 read with 34 I.P.C. The crime has been registered on the basis of a complaint filed by the petitioner before the Deputy Inspector General of Police, Ernakulam, North Zone. The crux of the allegations in the complaint is that the petitioner was engaged as a domestic maid by the accused persons - spouses. She had allegedly worked in the house of the accused for a period of 31 months. She was promised a salary of Rs.2,000/- per mensem. Thus, Rs.62,000/- were due; but only Rs.5,000/- was paid and the balance amount of Rs.57,000/- was not paid. When demands for such amount was made, the accused allegedly assaulted the petitioner. This, in short is the allegations raised. Crime was registered. Investigation was conducted. Accused persons came before this court with a prayer for anticipatory bail. Such anticipatory bail was granted as per order dated 13/10/2006, subject to conditions.

2. The petitioner has come to this court aggrieved by the unsatisfactory quality of investigation that has been conducted. According to the petitioner, no proper investigation has been conducted. The conditions of anticipatory bail were not complied with by the accused persons. But in spite of that, the investigating officer has not taken any action against the accused persons. It is her further

grievance that no effective steps for investigation have been taken by the investigating officer.

3. Notice was given to the learned Public Prosecutor. Statement has been filed by the investigating officer. The statement shows that proper investigation has been conducted and final report has already been filed. It is a negative final report. Investigation revealed that the allegations raised by the petitioner are unacceptable. It is accordingly that the refer report has been filed. Notice has been given to the petitioner on such refer report, it is further submitted.

4. The case diary has been produced before me. I have perused the same. I shall not express any final opinion on the conclusions reached by the investigating officer. Suffice it to say that after going through the case diary, I am not persuaded to agree that powers under Section 482 Cr.P.C or under Article 226 of the Constitution can or ought to be invoked to redress the alleged grievance raised by the petitioner. The petitioner has a remedy under the ordinary law. The petitioner can appear before the learned Magistrate and raise her objections, if any, against the acceptance of the final report submitted by the investigating officer. The petitioner has a further option of filing a private complaint, if she is aggrieved by the nature and quality of investigation conducted. I am not, at any

rate, satisfied that powers under Section 482 Cr.P.C or Article 226 of the Constitution can or ought to be invoked.

5. Petitioner's further grievance is that the accused have not been arrested and that no steps have been taken against the accused persons notwithstanding their non-compliance with the conditions for anticipatory bail. I find the same to be of no crucial significance. The investigating officer in the course of investigation, was satisfied that the accused persons need not be arrested and that the allegations against them are not justified. In these circumstances, the investigating officer cannot be found fault with for not taking any steps against the accused persons of the alleged non-compliance of the conditions.

6. This Criminal Miscellaneous Case is in these circumstances dismissed but with the specific observation that the petitioner's option to appear before the learned Magistrate and raise and substantiate her objections against the final report submitted shall remain unfettered by the dismissal of this Criminal Miscellaneous Case.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007